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BOOK REVIEWS.

THE AMERICAN CONSTITUTIONAL SYSTEM.—Westel Woodbury Wiloughby. New York. The Century Company. 1904. pp. xvi, 318.

This is the first of a series of eight volumes which are intended to describe "in detail the manner in which the governmental agencies of the country—federal, state and local—are organized and operated." The titles of the other volumes are to be, "City Government in the United States," "Party Organization," "The American Executive and Executive Methods," "American Legislatures and Legislative Methods," "The American Judiciary," "Territories and Colonies," and "Local Government in the United States, Cities Excepted."

"The aim of the present essay is to prepare the way for this descriptive work by disclosing the constitutional character of the American State, explaining the status of its various territorial subdivisions, and indicating the extent of the powers of their several governments."

The author first discusses the important matter of sovereignty with a view to determining where it is ultimately located in our system. He then considers the relations of the different units in our system to each other somewhat as follows. The States—the right to secede, or to nullify federal law. The Nation—its rights of oversight and control of the States, and its means of defense against the States if the latter refuse or neglect to perform their federal functions. The Territories and other Possessions of the United States—how and for what purposes they may be acquired and held, how they may be governed, what their constitutional status is, and what the political and civil rights of their inhabitants are.

The question of sovereignty is discussed in an interesting manner in the first sixty pages. The author states the belief of the States Rights school that the Constitution "was the creation in 1789 of the several States acting as individual and sovereign political entities." He then gives the various theories and explanations, not always consistent with the facts, by which it is sought to disprove the correctness of this view, or to escape its logical consequences. The author points out that these theories and explanations are all at fault in that they assume that the people of the convention period were logically consistent—whereas he believes that such was not the case; that there was genuine confusion in their minds as to the possibility of two co-existent sovereignties in the same field of operations. He considers it most fortunate that the constitution was not more explicit than it is on this subject, for if the people in 1788-9 had been called upon to choose squarely between national sovereignty and state sovereignty, they would have chosen the latter, and the constitution would have failed of adoption. In other words, "though the people intended to create, and thought they had created, a National State, they also believed that they were not sacrificing the sovereignty of their several commonwealths."

Then follows a chapter on "The Development of National Sovereignty" in which is traced the process by which, under the lead of the Supreme Court, the fact of national sovereignty was made more and more evident, until it came to be accepted by the people, certainly at the North, as the only true sovereignty.

The next one hundred and thirty pages are taken up with a discussion of the relations of Nation and State to each other, under the heads of "Secession, Coercion, Reconstruction," "Federal control of State governments," "Federal and State Autonomy," "Coercion of State Action" and "Federal Supervision of State duties." On these subjects, generally accepted views are advanced. In setting forth the competence of the United States "to meet every form of resistance to its authority," he notes the one particular in which the general government appears before the world to be strangely impotent. This is "its inability either itself to furnish, or to compel the States to furnish, legal redress to resident aliens for injury to life or property suffered at the hands of American citizens." This defect he believes to be a statutory rather than a constitutional one.

Against the advanced view of the sovereign powers of the United States so prevalent since the Spanish-American war, he enters a vigorous protest. "Most dangerous," he says, "of all the views that have been advanced to magnify the power of the United States is that which ascribes to it so called 'inherent sovereignty rights'—rights, that is, not implied in the grant of any of its express powers, but flowing from the fact of its sovereignty." After quoting from prominent public men who hold this view, he says, "There can be no question as to the constitutional unsoundness as well as the revolutionary character of the theory advanced in the foregoing quotations."

The author's discussion of the constitutional status of our new Possessions, and the citizenship and political and civil rights of their inhabitants, is timely and valuable. He considers at some length the Supreme Court's decisions in the "Insular Cases," and carefully analyzes the singularly inharmonious opinions of the Judges.

A useful chapter is the one on "The Political Status of Indians."

The book is one of the best short presentations of fundamental constitutional principles that we have.

A TREATISE ON THE INCORPORATION AND ORGANIZATION OF CORPORATIONS. Thomas G. Frost. Little, Brown & Co., Boston, 1905. xliv, 622.

The author of this treatise in a work of less than 700 pages attempts to give a synopsis of the laws of all the states of the United States and its territories as well as those of Canada. He also includes precedents for all these states, and a text of 210 pages which gives a summary of the points which should be considered in forming a corporation. In his preface he rather naively confesses that "one of the greatest difficulties met with in the preparation of the volume here presented, has been to successfully condense the subject matter thereof without eliminating any matter of real importance." We should say that the author has attempted the impossible, and that if the work is to be judged by this standard it must fail because many "matters of real importance" have had to be omitted. The hopelessness of the